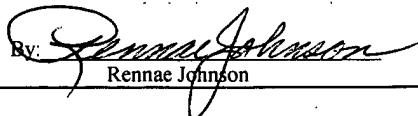




IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: WAGNER et al. Examiner: Johnson, S.
Serial No.: 10/799,341 Group Art Unit: 3766
Filed: March 12, 2004 Docket No.: GUID.627PA
(03-255)
Allowed: December 15, 2005 Confirmation No.: 6218
Title: PATIENT STRATIFICATION FOR IMPLANTABLE SUBCUTANEOUS
CARDIAC MONITORING AND THERAPY

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this communication is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 14, 2006.

By: 
Rennae Johnson

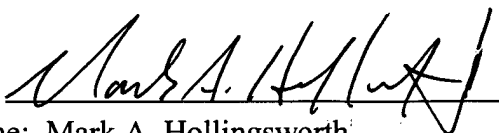
MAIL STOP ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet
- ☒ Please charge Deposit Account No. 50-3581 (GUID.627PA) the amount of \$1,700.00 (\$1400.00 for the Issue Fee, \$300.00 for the Publication Fee).
- ☒ Part B-Issue Fee Transmittal.
- ☒ Comments on Statement of Reasons for Allowance.
- ☒ 1 Return Postcard.
- ☒ If appropriate, charge Deposit Account No. 50-3581 (GUID.627PA) for any fee deficiency or overage.

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8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700 (tel.) · 952.854.2722 (fax)

By: 
Name: Mark A. Hollingsworth
Reg. No.: 38,491




PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	WAGNER <i>et al.</i>	Examiner:	Johnson, S.
Serial No.:	10/799,341	Group Art Unit:	3766
Filed:	March 12, 2004	Docket No.:	GUID.627PA (03-255)
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence and the papers, as described hereinabove, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 14, 2006.

By: 
Rennae Johnson

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

MAIL STOP ISSUE FEE
c/o Technology Center 3600
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Communication addresses the Examiner's Statement of Reasons for Allowance dated December 15, 2005. In the Reasons for Allowance, the Examiner identified specific features of claim 1 that are not taught or suggested by the cited prior art. Applicant notes, however, that the Examiner did not address whether the cited prior art teaches or suggests (or fails to teach or suggest) features of the other allowed independent claims. Rather, the Examiner merely identified particular features of claim 1 that the cited prior art clearly fails to teach or suggest.

The Examiner's statement is silent with respect to features and recitations of the other allowed independent claims. Although the Examiner did not explicitly state that the cited prior art fails to teach or suggest all limitations of allowed independent claims 11, 23, 37, 44, and 54, Applicant clarifies for the record that the Examiner's specific indication of allowance of these

claims in the Notice of Allowability makes clear that all claims are patentable over the art of record, and that any interpretation of the Reasons for Allowance to the contrary would be incorrect and impermissible. Allowed independent claims 11, 23, 37, 44, and 54 include other recitations which are neither described nor suggested by the prior art.

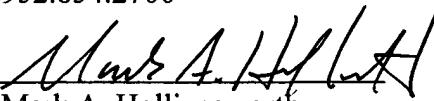
Accordingly, to the extent that the Reasons for Allowance may imply that the claimed invention was deemed allowed due to the failure of the cited prior art to disclose or suggest only the recitations of claim 1, Applicant disputes any such implication. The Examiner's specific indication of allowance of independent claims 11, 23, 37, 44, and 54 in the Notice of Allowance clearly establishes that these claims (and their dependent claims) were not rendered anticipated under 35 U.S.C. §102 nor deemed obvious under 35 U.S.C. §103. The absence of the requisite statutory showing of anticipation and obviousness, and explicit indication of allowance in the Notice of Allowance, makes abundantly clear that the Examiner has deemed independent claims 11, 23, 37, 44, and 54 allowable, notwithstanding the omission of such discussion in the Reasons for Allowance.

If there is disagreement on the part of the Examiner, Applicant invites the Examiner to address Applicant's remarks presented herein. It is respectfully submitted that Applicant has not intended to narrow, nor has Applicant narrowed, the breadth of the allowed claims through the explanatory comments provided herein.

Respectfully submitted,

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Date: 3-14-2006

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